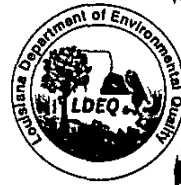




State of Louisiana
Department of Environmental Quality



*Edms
RF
Kern
Swamy*

KATHLEEN BABINEAUX BLANCO
GOVERNOR

October 27, 2004

MIKE D. McDANIEL, Ph.D.
SECRETARY

CERTIFIED MAIL (7003 2260 0001 2752 0443/0450)
RETURN RECEIPT REQUESTED

NEW ORLEANS COLD STORAGE AND WAREHOUSE COMPANY LTD.
 c/o Steven E. Hayes
 Agent of Service
 One Galleria Blvd., Ste. 1100
 Metairie, LA 70001

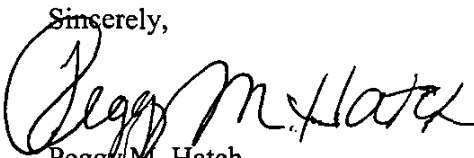
RE: COMPLIANCE ORDER
ENFORCEMENT TRACKING NO. RMPE-C-04-0019
AGENCY INTEREST NO. 103877

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **COMPLIANCE ORDER** is hereby served on **NEW ORLEANS COLD STORAGE AND WAREHOUSE COMPANY LTD. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **COMPLIANCE ORDER** could result in the issuance of a civil penalty or referral to the Department of Justice for appropriate legal actions.

Any questions concerning this action should be directed to Joseph Austin at (225) 219-3791.

Sincerely,

 Peggy M. Hatch
 Administrator
 Enforcement Division

PMH/JPA/jpa
Attachment



c: New Orleans Cold Storage Jourdan Terminal
c/o Mr. Gary Escoffier, President
P.O. Box 26308
New Orleans, LA 70186

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

**NEW ORLEANS COLD STORAGE AND
WAREHOUSE COMPANY LTD.
ORLEANS PARISH**

*
*
*
*
*
*
*
*
*
*
*

ENFORCEMENT TRACKING NO.

RMPE-C-04-0019

AGENCY INTEREST NO.

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT,
La. R.S. 30:2001, ET SEQ.**

103877

COMPLIANCE ORDER

The following **COMPLIANCE ORDER** is issued to **NEW ORLEANS COLD STORAGE AND WAREHOUSE COMPANY LTD. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C) and 30:2050.2.

FINDINGS OF FACT

I.

The Respondent owns and/or operates a facility known as New Orleans Cold Storage Jourdan Terminal located at 3411 Jordan Road in New Orleans, Beauregard Parish, Louisiana.

II.

The Department has incorporated by reference 40 CFR Part 68 and 65 FR 13243-13250 which language has been adopted as Louisiana regulation LAC 33:III.5901.A.

III.

On or about April 13, 2004, representatives of the Department audited the Risk Management Plan (RMP) for this facility. The following violations were found during the course of this audit:

- A. The Respondent failed to establish inspection frequencies for its process equipment, in violation of 40 CFR 68.73 (d)(3), and La. R.S. 30:2057(A)(2).
- B. The Respondent failed to develop a written schedule or completion date of when PHA recommendations are to be completed, in violation of 40 CFR 68.67(e) and La. R.S. 30:2057(A)(2).
- C. The Respondent failed to establish and implement written procedures to maintain the ongoing integrity of the process equipment listed in 40 CFR 68.73(a), in violation of 40 CFR 68.73(b) and La. R.S. 30:2057(A)(2).
- D. The Respondent failed to train each employee involved in maintaining the ongoing integrity of process equipment in violation of 40 CFR 68.73(c) and La. R.S. 30:2057(A)(2).
- E. The Respondent failed to ensure that each employee presently involved in operating a process, and each employee before being involved in operating a newly assigned process, has been initially trained in an overview of the process and in the operating procedures, in violation of 40 CFR 68.71(a)(1) and La. R.S. 30:2057(A)(2).

- F. The Pre-Startup Safety Review (PSSR) performed prior to startup did not confirm that a process hazard analysis had been performed and that the recommendations had been resolved or implemented in violation of 40 CFR 68.77(b)(3) and did not confirm that training for each employee involved in operating a process had been completed, in violation of 40 CFR 68.77(b)(4) and La. R.S. 30:2057(A)(2).
- G. The Respondent did not have any procedures for the use of emergency response equipment or for its inspection, testing, and maintenance, in violation of 40 CFR 68.95(a)(2). Also, no employees have been trained in the relevant procedures or in the use of the emergency response equipment, in violation of 40 CFR 68.95(a)(3) and La. R.S. 30:2057(A)(2).
- H. The Respondent failed to submit an RPM as required by 68.12(a) prior to introduction of a covered chemical as required by 68.10(a).

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To submit to the Enforcement Division of the Department of Environmental Quality, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, sufficient documentation that states that inspection frequencies have been established for all inspections.

II.

To immediately develop and implement, upon receipt of this **COMPLIANCE ORDER**, a written schedule or completion date of when PHA recommendations are to be completed.

III.

To submit to the Enforcement Division of the Department of Environmental Quality, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, sufficient documentation that illustrates that written procedures to maintain the ongoing integrity of the process equipment listed in 40 CFR 68.73 have been developed.

IV.

To train, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, each employee involved in maintaining the ongoing integrity of process equipment. Also, the Respondent shall ensure that proof of such training is maintained on-site at all times.

V.

To immediately develop and institute, upon receipt of this **COMPLIANCE ORDER**, procedures to ensure that a process hazard analysis is performed and recommendations are resolved or implemented and each employee prior to being involved in operating a newly assigned process has been initially trained in an overview of the process and in the operating procedures.

VI.

To immediately develop and implement, upon receipt of this **COMPLIANCE ORDER**, procedures for the use of emergency response equipment or for its inspection, testing, and maintenance. The Respondent shall ensure that employees have been trained in these procedures.

VII.

To immediately develop and implement, upon receipt of this **COMPLIANCE ORDER**, procedures to insure that RPM is submitted prior to introduction of a covered chemical as required by 68.10(a).

VIII.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**.

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the **Enforcement Tracking Number and Agency Interest Number**, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. RMPE-C-04-0019
Agency Interest No. 103877

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025,

which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

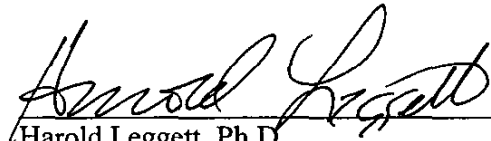
VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

VIII.

This **COMPLIANCE ORDER** is effective upon receipt.

Baton Rouge, Louisiana, this 21 day of October, 2004.



Harold Leggett, Ph.D.
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Cheryl Easley